

Third Party Administrator Agreement Compliance Checklist

Pursuant to IC 27-1-25

Directions: Please complete a compliance checklist for each administrative agreement. Indicate in the "Located" section where in the agreement the State statute citation can be located. In addition, each contract should be highlighted or marked in the margin indicating the below citations.

Statute	Requirement	Located	Dept Use Only
27-1-25-2 (a)	An administrator may act only if there is a written agreement between the administrator and an insurer. This agreement must conform to the requirements of this chapter, which apply to the functions performed by the administrator.		
	Comments:		
27-1-25-2 (b)	An agreement between an administrator and an insurer must be retained by both parties as part of their official records for a period of not less than five (5) years after the termination of the agreement.		
	Comments:		
27-1-25-2 (c)	When a policy is issued to a trustee, a copy of the trust agreement and all amendments to it must be: 1. furnished by the administrator to the insurer with which the administrator has a written agreement and 2. retained as part of the official records of the administrator for a period of not less than five (5) years after the termination of the trust.		
	Comments:		
27-1-25-2 (d)	The written agreement required under subsection (a) must: 1. include a statement of functions that the administrator will perform on behalf of the insurer; 2. specify the lines, classes, or types of coverage that the administrator is authorized to administer on behalf of the insurer; and 3. contain provisions concerning the standard of underwriting required by the insurer.		
	Comments:		
27-1-25-2 (e)	The commissioner may require any written agreement executed by an administrator and an insurer to be filed with the department at the time the administrator applies for a license under this chapter. The commissioner may require any written agreement executed subsequent to the original issue of the license to the administrator to be filed with the department at the time the administrator is applying for renewal of the license.		
	Comments:		
27-1-25-2 (f)	An administrator or insurer may, with written notice, terminate a written agreement for cause as provided in the written agreement. The insurer may suspend the underwriting authority of the administrator during the pendency of a dispute regarding the cause for termination of the written agreement. The insurer shall fulfill lawful obligations with respect to coverage affected by the written agreement, regardless of a dispute described in this subsection.		
	Comments:		

Statute	Requirement	Located	Dept Use Only
27-1-25-4 (a)	<p>An administrator:</p> <ul style="list-style-type: none"> (1) shall maintain at its principal administrative office books and records of all transactions between the administrator and insurers for at least five (5) years after the creation of the books and records; or (2) may transfer the books and records of transactions between the administrator and an insurer with which the administrator has entered into a written agreement under section 2 of this chapter to a new administrator if: <ul style="list-style-type: none"> (A) the agreement between the administrator and the insurer is canceled; and (B) a written agreement for a transfer of the books and records is made between the administrator and the insurer. <p>If the books and records are transferred to a new administrator under subdivision (2), the new administrator shall acknowledge in writing that the new administrator is responsible for retaining the books and records of the prior administrator as required under subdivision (1). The books and records must be maintained in accordance with generally accepted standards of insurance record keeping.</p>		
	Comments:		
27-1-25-4 (b)	<p>The commissioner is entitled to inspect all books and records of the administrator for the purpose of examinations and audits. Trade secrets contained within those books and records, including the identity and addresses of policyholders and certificate holders, financial information concerning the administrator, and the business plan of the administrator, are to remain confidential. However, the commissioner may use that confidential information in proceedings instituted against the administrator.</p>		
	Comments:		
27-1-25-4 (c)	<p>An insurer is the owner of records that:</p> <ul style="list-style-type: none"> (1) are generated by an administrator with which the insurer has entered into a written agreement under section 2 of this chapter; and (2) pertain to the insurer. <p>However, the administrator retains the right to continuing access to books and records necessary to fulfill the administrator's contractual obligations to covered individuals, claimants, and the insurer.</p>		
	Comments:		
27-1-25-4 (d)	<p>An administrator that is licensed under section 11.1 of this chapter shall make available for inspection by the commissioner copies of written agreements with insurers.</p>		
	Comments:		
27-1-25-4 (e)	<p>An administrator that is licensed under section 11.1 of this chapter shall</p> <ul style="list-style-type: none"> (1) produce the administrator's accounts, records, and files for examination; (2) make the administrator's officers available to provide information concerning the affairs of the administrator; whenever reasonably required by the commissioner. 		
	Comments:		

Statute	Requirement	Located	<u>Dept Use Only</u>
27-1-25-4 (f)	An administrator that is licensed under section 11.1 of this chapter shall immediately notify the commissioner of a material change in: (1) the ownership or control of the administrator; or (2) another fact or circumstance that affects the administrator's qualification for a license. The commissioner, upon receiving notice under this subsection, shall report the change to an electronic data base maintained by the NAIC or an affiliate or a subsidiary of the NAIC.		
	Comments:		
27-1-25-4 (g)	An administrator that is licensed under section 11.1 of this chapter and that administers a governmental plan or a church plan shall maintain a bond: (1) for the use and benefit of: (A) the commissioner; and (B) the insurance regulator of any state in which the administrator is authorized to conduct business; and (2) that covers an individual and a person that has remitted premiums, insurance, charges, or other money to the administrator in the course of the administrator's business; in an amount equal to the greater of one hundred thousand dollars (\$100,000) or ten percent (10%) of the total of funds administered in connection with governmental plans or church plans in Indiana and all other states in which the administrator is authorized to conduct business.		
	Comments:		
27-1-25-5	An administrator may use advertising relating to the business underwritten by an insurer only to the extent that the advertising has been approved in writing by that insurer before the advertising is used.		
	Comments:		
27-1-25-5.5 (a)	If an insurer uses the services of an administrator, the insurer is responsible for: (1) determining the: (A) benefits; (B) premium rates; (C) underwriting criteria; and (D) claims payment procedures; that apply to the coverage; and (2) securing reinsurance.		
	Comments:		
27-1-25-5.5 (b)	An insurer shall provide to an administrator, with the written agreement required under section 2 of this chapter: (1) the rules that the administrator must follow in administering the coverage, as determined under subsection (a); and (2) the responsibilities of the administrator as to administering the coverage.		
	Comments:		
27-1-25-5.5 (c)	An insurer that uses the services of an administrator has sole responsibility for the competent administration of benefit programs provided by the insurer.		
	Comments:		
27-1-25-5.5 (d)	If an administrator administers benefits for more than one hundred (100) covered individuals on behalf of an insurer, the insurer shall, not less than semiannually, review the operations of the administrator. At least one (1) of the semiannual reviews must be an onsite audit of the operations of the administrator.		
	Comments:		

Statute	Requirement	Located	Dept Use Only
27-1-25-6 (a)	An Administrator is a fiduciary in collecting or returning premiums or charges for the insurer with whom it has a written agreement for administrative services.		
	Comments:		
27-1-25-6 (b)	Funds collected by the administrator shall be immediately remitted to the person entitled to the funds or deposited in a fiduciary account, which shall be established and maintained by the administrator in a federally insured or state insured financial institution.		
	Comments:		
27-1-25-6 (c)	The administrator shall maintain records clearly showing the deposits and withdrawals from the fiduciary account for each insurer with whom it has a written agreement for administrative services. The administrator shall furnish to the insurer: (1) upon the insurer's request, copies of the required records; and (2) at intervals specified in the written agreement, a periodic accounting of transactions performed by the administrator pertaining to the business underwritten by the insurer.		
	Comments:		
27-1-25-6 (d)	Subject to the written agreement required by section 2 of this chapter, withdrawals from the fiduciary account shall only be made for the following: (1) Remittance to an insurer entitled to the funds. (2) Deposit in an account maintained in the name of the insurer with whom the administrator has a written agreement. (3) Transfer to and deposit in a claims paying account, with claims to be paid as required under section 7 of this chapter. (4) Payment to a group policyholder for remittance to the insurer entitled to the funds. (5) Payment to the administrator for its commission, fees, or charges. (6) Remittance of return premiums to the person entitled to the funds.		
	Comments:		
27-1-25-6 (e)	An administrator may not pay any claim with money withdrawn from a fiduciary account established under subsection (b) in which premiums or charges are deposited.		
	Comments:		
27-1-25-7	All claims paid by an administrator from funds collected on behalf of an insurer shall only be paid on drafts or checks authorized by the insurer.		
	Comments:		
27-1-25-8 (a)	An administrator may not enter into an agreement or understanding with an insurer if the effect of the agreement or understanding is to make the amount of a: (1) commission; (2) fee; or (3) charge; that is payable to the administrator contingent on savings effected in the adjustment, settlement, and payment of losses covered by the insurer's obligations.		
	Comments:		

Statute	Requirement	Located	<u>Dept Use Only</u>
27-1-25-9	Policies, certificates, booklets, termination notices, or other written communications delivered by an insurer to an administrator for delivery to its covered individuals shall be delivered by the administrator promptly after receipt of instructions from the insurer to do so.		
	Comments:		
27-1-25-10 (a)	An administrator having a written agreement with an insurer shall provide written notice, which must first be approved by the insurer, to covered persons advising them of the relationship among the administrator, the covered person, and the insurer.		
	Comments:		
27-1-25-10 (b)	When the administrator collects premiums or charges, the administrator shall state separately the amount of any premium or charge for coverage specified by the insurer to the person paying the premium or charge. Additional charges may not be made for a service to the extent that the charge for the service has been paid by the insurer.		
	Comments:		
27-1-25-10 (c)	The administrator shall disclose to the insurer: (1) charges; (2) fees; and (3) commissions; Received by the administrator in connection with the provision of administrative services for the insurer, including fees or commissions paid by insurers that provide reinsurance.		
	Comments:		